

HOUSE No. 2478

By Mr. Kujawski of Webster, petition of Paul Kujawski relative to the timing of reimbursement for federal manufacturer's excise tax on petroleum products. Revenue.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO THE TIMING OF REIMBURSEMENT FOR FEDERAL MANUFACTURER'S EXCISE TAX.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 93 of the Massachusetts General Laws is hereby
2 amended by adding the following section:—

3 § 43A. Timing of Reimbursement for Federal Excise Tax on
4 Petroleum Products:—

5 (a) When a contract calls for one party to reimburse the other
6 party for the federal manufacturer's excise tax levied by Part III of
7 Subchapter A of Chapter 32 of the United States Internal Revenue
8 Code, whether as a separate item or as part of the price, the party
9 required to make the reimbursement may tender payment for the
10 taxes 1 business day before the time that the other party is
11 required to remit the taxes to the United States Internal Revenue
12 Service.

13 (b) If a party elects to exercise the option provided in subsec-
14 tion (a) of this section, the other party may demand security for
15 the payment of the taxes in proportion to the amount such taxes
16 represent compared to the security demanded on the contract as a
17 whole. The other party, however, may not change the other pay-
18 ment terms of the contract without a valid business reason except
19 to require the payment of such taxes under the option to be made
20 by electronic transfer of funds.

21 (c) The party exercising the option set out in subsection (a) of
22 this section shall notify the other party in writing of the intent to
23 exercise such payment option and the effective date of the exer-

24 cise which shall be no earlier than 30 days after the notice of
25 intent is received or the beginning of the next federal tax quarter,
26 whichever is later.

27 (d) This section shall apply to all contracts in effect on July 1,
28 2005, which have no expiration date and are continuing contracts
29 and to all other contracts entered into or renewed after July 1,
30 2005. Any contract in force and effect on July 1, 2005, which, by
31 its own terms will terminate on a date subsequent thereto, shall be
32 governed by the law as it existed prior to July 1, 2005.

33 (e) The option set out in subsection (a) of this section shall not
34 be construed to impair the obligations arising under any contract
35 executed prior to July 1, 2005. Should the option set out in sub-
36 section (a) of this section be exercised, it shall not relieve such
37 party of the obligation to make the reimbursement as provided for
38 in the contract but shall affect only the timing of when that reim-
39 bursement must be tendered.